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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,276	10/22/2003	Sixten Johansson	81757.0039	7140
466 7590 03/08/2007 YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			EXAMINER BONURA, TIMOTHY M	
			ART UNIT 2114	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/08/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/692,276	JOHANSSON ET AL.	
	Examiner	Art Unit	
	Tim Bonura	2114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-19 is/are rejected.
- 7) ☒ Claim(s) 2,3 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

- **Claims 1, 4-12, and 14-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Puppa, et al, U.S. Patent Number 7,092,361.**
- **Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Regarding claim 13, the term "substantially immediately" in claim 13 is a relative term, which renders the claim indefinite. The term "substantially immediately" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The term "substantially immediately" is indefinite because an event that is immediate cannot substantially be immediate without not being immediate.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-2, 4-12, and 14-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Puppa, et al, U.S. Patent Number 7,092,361.

6. Regarding claim 1:

a. Regarding the limitation of "detecting a connection fault and accordingly performing a switch-over in data communication in accordance with a set of rules based on Operation and Maintenance data communication principles," Puppa discloses a system with a switch-over communication network OAM protocol for operating the system. (Lines 21-25 of Column 1).

b. Regarding the limitation of "an interval for sending connectivity verification data information in the data communication is such that a real time based data communication is achievable," Puppa discloses a system that can send and receive connection information with detect a fault in network elements. (Lines 52-61 of Column 1).

7. Regarding claim 4, Puppa discloses a system that can detect a communication fault upon the expiry of a time interval. It would be inherent to set a time at 50 milliseconds for a detection of a connection fault in the communication system. (Lines 62-65 of Column 1).

8. Regarding claim 5, Puppa discloses a system that can detect a communication fault upon the expiry of a time interval. It would be inherent to set a time at 50 milliseconds for a detection of a connection fault in the communication system. (Lines 62-65 of Column 1).

9. Regarding claim 6, Puppa discloses a system that can detect a communication fault upon the expiry of a time interval. It would be inherent to set a time at 50 milliseconds for a detection of a connection fault in the communication system. (Lines 62-65 of Column 1).

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10. Regarding claim 7, Puppa disclose a system wherein the number of missing data packets can be three. (Lines 62-65 of Column 1).
11. Regarding claim 8, Puppa discloses a system with MPLS for real time service. (Lines 18-25 of Column 3).
12. Regarding claim 9, Puppa discloses a system with LPS communications. (Lines 61-64 of Column 3).
13. Regarding claim 10, Puppa discloses a system that is based on OAM procedures. (Lines 1-6 of Column 3).
14. Regarding claim 11, Puppa discloses a system that is MPLS used to communicate between networks. (Lines 36-43 of Column 3).
15. Regarding claim 12, Puppa discloses a system that is MPLS used to communicate between networks. (Lines 36-43 of Column 3).
16. Regarding claim 14, Puppa discloses a system wherein there are two communication networks each having different and independent internal communication networks. (Lines 65-67 of Column 1 and Lines 1-15 of Column 2).
17. Regarding claim 15, Puppa discloses a system with means for CV packets. (Lines 50-52 of Column 5).
18. Regarding claim 16:
 - c. Regarding the limitation of "detecting a connection fault and accordingly performing a switch-over in data communication between a source computing device and a sink computing device in accordance with a set of rules based on Operation and Maintenance data communication principles," Puppa discloses a system with a switch-over communication network OAM protocol for operating the system. (Lines 21-25 of Column 1). Puppa discloses a system wherein there are two communication networks

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each having different and independent internal communication networks. (Lines 65-67 of Column 1 and Lines 1-15 of Column 2).

d. Regarding the limitation of "an interval for sending connectivity verification data information in the data communication is such that a real time based data communication is achievable," Puppa discloses a system that can send and receive connection information with detect a fault in network elements. (Lines 52-61 of Column 1).

19. Regarding claim 17:

e. Regarding the limitation of "detecting a connection fault and accordingly performing a switch-over in data communication between a source computing device and a sink computing device in accordance with a set of rules based on Operation and Maintenance data communication principles," Puppa discloses a system with a switch-over communication network OAM protocol for operating the system. (Lines 21-25 of Column 1). Puppa discloses a system wherein there are two communication networks each having different and independent internal communication networks. (Lines 65-67 of Column 1 and Lines 1-15 of Column 2).

f. Regarding the limitation of "means for sending connectivity verification data information in the data communication is such that a real time based data communication is achievable," Puppa discloses a system that can send and receive connection information with detect a fault in network elements. (Lines 52-61 of Column 1).

20. Regarding claim 18:

g. Regarding the limitation of "detecting a connection fault and accordingly performing a switch-over in data communication between a source computing device

and a sink computing device in accordance with a set of rules based on Operation and Maintenance data communication principles," Puppa discloses a system with a switch-over communication network OAM protocol for operating the system. (Lines 21-25 of Column 1). Puppa discloses a system wherein there are two communication networks each having different and independent internal communication networks. (Lines 65-67 of Column 1 and Lines 1-15 of Column 2).

h. Regarding the limitation of "means for sending connectivity verification data information in the data communication is such that a real time based data communication is achievable," Puppa discloses a system that can send and receive connection information with detect a fault in network elements. (Lines 52-61 of Column 1).

21. Regarding claim 19:

i. Regarding the limitation of "detecting a connection fault and accordingly performing a switch-over in data communication between a source computing device and a sink computing device in accordance with a set of rules based on Operation and Maintenance data communication principles," Puppa discloses a system with a switch-over communication network OAM protocol for operating the system. (Lines 21-25 of Column 1). Puppa discloses a system wherein there are two communication networks each having different and independent internal communication networks. (Lines 65-67 of Column 1 and Lines 1-15 of Column 2).

j. Regarding the limitation of "computer program code for causing the system to send connectivity verification data information in the data communication is such that a real time based data communication is achievable," Puppa discloses a system that can

send and receive connection information with detect a fault in network elements. (Lines 52-61 of Column 1).

Allowable Subject Matter

22. Claims 2, 3, 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

23. Applicant's argument, filed 12/06/2006, with respect to claim 3 has been fully considered and is persuasive. The rejection (112 rejection) of claim 3 has been withdrawn.

24. Applicant's argument, filed 12/06/2006, with respect to claim 19 has been fully considered and is persuasive. The objection of claim 19 has been withdrawn.

25. Applicant's arguments, filed 12/06/2006, with respect to claims 2 and 3 have been fully considered and are persuasive. The rejections (based on art) of claims 2 and 3 have been withdrawn.

26. Applicant's arguments filed 12/6/2006 have been fully considered but they are not persuasive:

k. Regarding claim 1, the applicant argues that the prior art of record fails to teach or suggest the "an interval for sending connectivity verification data information in the data communication is such that a real time based data communication is achievable" (Page 10 last paragraph and page 11). The applicant state that Puppa does not anticipate the limitation because Puppa is not based on real-time based communications due to the incompatibilities in the essential feature of Puppa. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., communication comprises

approximately one connectivity verification packet per 10 milliseconds or one connectivity verification packet per 15 milliseconds respectively [page 9 of the response]) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The examiner would also like to point out that the applicant uses limitation found in claims 2, 3, and 4 (see pages 9 and 10), to argue over content of claim 1. This is an invalid argument for claim 1.

l. Regarding claim 13, the examiner contends that the claim is now vague and indefinite. Please see above rejection for further detail.

m. Regarding claims 16-19, the arguments filed 12/06/2006 do not specifically address any of the claims 16-19. Thereby, the rejections are maintained due to lack of rebuttal from the applicant.

Conclusion

27. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

28. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tim Bonura**.

- o The examiner can normally be reached on **Mon-Fri: 8:30-5:00**.
- o The examiner can be reached at: **571-272-3654**.

30. If attempts to reach the examiner by telephone are unsuccessful, please contact the examiner's supervisor, **Scott Baderman**.

- o The supervisor can be reached on **571-272-3644**.

31. The fax phone numbers for the organization where this application or proceeding is assigned are:

- o **703-872-9306 for all patent related correspondence by FAX.**

32. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

33. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **receptionist** whose telephone number is: **571-272-2100**.

34. Responses should be mailed to:

- o **Commissioner of Patents and Trademarks**

P.O. Box 1450

Alexandria, VA 22313-1450

tmb
March 5, 2007



SCOTT BADERMAN
SUPERVISORY PATENT EXAMINER